

FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

MARK A. HUFFMAN, M.D.,
RESPONDENT.

ORDER
94 MED 384

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Mark A. Huffman, M.D.
4421 N. Maryland
Shorewood, WI 53211

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. That Mark A. Huffman, M.D., Respondent, DOB August 23, 1958, is a physician licensed to practice medicine and surgery in the state of Wisconsin, pursuant to license #27226, which was first granted October 25, 1985.
2. That on June 20, 1991, pursuant to Stipulation, the Wisconsin Medical Examining Board issued an Order that Respondent not be allow to examine or treat any patient, in person.
3. That on September 23, 1993, the Wisconsin Medical Examining Board issued an Order which, among other things, limited Respondent's license to practice medicine and surgery in the state of Wisconsin.

4. That the only modification to those limitations on Respondent's license to practice and surgery in the state of Wisconsin was an extension of time within which Respondent needed to take and successfully complete 30 credit hours of Category I continuing medical education credits in the area of doctor/patient relationships and dual relationship issues. This modification was made by an Order of the Board dated July 4, 1994.

5. That paragraph 3 of the 09/23/93 Order allows Respondent to practice only in settings which have been approved by the Board or its designee. The Board approved Respondent's practice in a fellowship in addiction medicine at the Medical College of Wisconsin and at Milwaukee Psychiatric Hospital.

6. That paragraph 4 of the Board's Order of 09/23/93 required that a physician practicing at the same facility as Respondent serve as Respondent's supervising physician.

7. That the supervising physician is required to file reports with the Wisconsin Medical Examining Board every three months, and is required to report "any problems or concerns which have arisen regarding Respondent's practice." (Order-paragraph 5).

8. The supervising physician is also required to immediately report the existence and details of "any complaint made against Respondent regarding alleged misconduct in the practice of medicine or surgery." (Order-paragraph 9).

9. That on October 17, 1994 the Department of Regulation and Licensing and the Medical Examining Board received a letter dated October 13, 1994 from Dr. David Benzer, Respondent's supervising physician and the program director of the Addiction Medicine Fellowship at the Medical College of Wisconsin. Dr. Benzer's letter stated that it was to inform the Department and the Board that Respondent had been suspended from Milwaukee Psychiatric Hospital as well as from the Fellowship in Addiction Medicine at the Medical College of Wisconsin pending investigation of an allegation of inappropriate contact between Respondent and a patient.

10. That the Division of Enforcement, is in the process of investigating the allegations brought to its attention by Dr. Benzer's letter, but has been unable to complete the investigation as of this date. The Division has ascertained that the patient and Respondent agree that following a session, the Respondent embraced the patient in a hug and kissed the patient on his cheek. The Division has also been advised that there may be additional allegations by the patient, which the Division will investigate.

CONCLUSIONS OF LAW

1. That the Wisconsin Medical Examining Board has jurisdiction over this matter pursuant to sec. 448.02(3) and (4), Stats.

That the Wisconsin Medical Examining Board has authority to accept this interim Stipulation pursuant to sec. 227.44(5), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the Stipulation of the parties is hereby accepted.

IT IS FURTHER ORDERED, that Mark A. Huffman's license to practice medicine and surgery in the state of Wisconsin is hereby suspended effective immediately.

IT IS FURTHER ORDERED, that the suspension shall remain in effect until the occurrence of one of the following:

- a. Agreement by all parties accepted by the Board, that the suspension shall end.
- b. Issuance of a Final Decision and Order an investigation 94 MED 384.
- c. Upon written request by the Respondent that the suspension be ended, to which the Complainant will not agree or which the Board will not approve, the suspension shall become a suspension pending hearing for a period of 90 days from receipt of Respondent's request. If subsequent to receipt of such request, Respondent or his attorneys cause a delay in the hearing process, the Board may subsequently suspend Respondent's license from the time the disciplinary process is commenced until a final decision is ordered or may delegate such authority to the Administrative Law Judge in the matter. The written request by Respondent specified in this subsection shall be made to the Department of Regulation and Licensing, Division of Enforcement, at P.O. Box 8935, Madison, WI 53708, by certified mail.

Dated this 17th day of November, 1994



Clark O. Olsen, M.D., Secretary
Medical Examining Board

JZ:dab
ATY-HLG1529

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
MARK A. HUFFMAN, M.D.,	:	
RESPONDENT.	:	

It is hereby agreed and stipulated, by and between, Mark A. Huffman, M.D., Respondent; Jay R. Starrett of Kravit, Gass & Weber, S.C., attorneys for Respondent; and, John R. Zwieg, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. That Mark A. Huffman, M.D., Respondent, DOB August 23, 1958, is a physician licensed to practice medicine and surgery in the state of Wisconsin pursuant to license #27226, which was first granted October 25, 1985.
2. That on September 23, 1993 the Wisconsin Medical Examining Board entered a Final Decision and Order which, among other things, limited Respondent's license to practice medicine and surgery in the state of Wisconsin. That, with the exception of an extension of time within which to take and successfully complete required continuing medical education credits, the limitations imposed by the Board's 9/23/93 Order remain in effect.
3. That the Wisconsin Department of Regulation and Licensing, Division of Enforcement has an open investigative file regarding Respondent, 94 MED 384, which contains allegations that Respondent, violated the terms of his limited license.
4. Respondent is aware of his right to seek legal representation, and has done so, prior to signing this Stipulation.
5. Respondent agrees to the issuance of the attached Order by the Medical Examining Board. The parties to this Stipulation consent to the entry of the attached Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Order, if adopted in the form as attached.
6. If the terms of this Stipulation are not acceptable to the Medical Examining Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Medical Examining Board, the parties agree not to contend that the Medical Examining Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

FROM : M HUFFMAN MD

PHONE NO. : 414 963 1395

P02

NOV-16-1994 15:32 FROM KRAVIT, GASS & WEBER

TO

9631395

P.03

NOV 16 '94 15:32 DEPT REGULATION

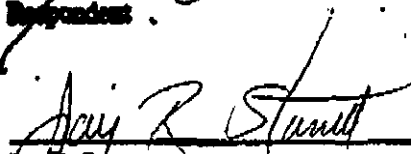
r.ore

7. The parties to this Stipulation agree that the attorney for the Division of Enforcement and the member of the Medical Examining Board assigned as the advisor in this investigation may appear before the Medical Examining Board for the purpose of speaking in support of this agreement and answering questions that the members of Medical Examining Board may have in connection with the deliberations on this Stipulation.

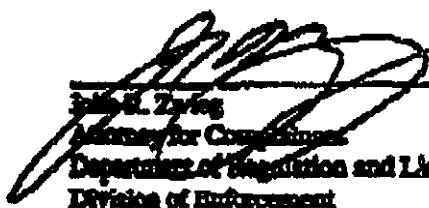
Dated this 16th day of November, 1994.


Mark A. Hoffman, M.D.
Respondent

Dated this 16th day of November, 1994.


Jay R. Stuart
Kravitz, Gass & Weber, S.C.
Attorneys for Respondent

Dated this 16th day of November, 1994.


John E. Ziegler
Attorney for Commissioner
Department of Regulation and Licensing
Division of Enforcement

JKZ:deb
ATTY-ELG1328

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN MEDICAL EXAMINING BOARD.

1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708.

The Date of Mailing this Decision is:

NOVEMBER 21, 1994.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

SECTIONS 227.49 AND 227.53, OF THE WISCONSIN STATUTES

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board, the consumer credit review board, the credit union review board, the savings and loan review board or the savings bank review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 5.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

5. The savings bank review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings bank review board shall be the named respondents.

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, the savings and loan review board and the savings bank review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.